

1871-013  
Lee Co.

Chancery Causes. John M. Tate

vs. Francis C. Allen for &c

C. Young & Sons, Young, McPherson, Orr, Poteet

CA. Debt



Virginia Lee County Court Suit

To the honorable Judge of the said court in chancery sitting, your orator John Mc Tate, respectfully represents and charges That Francis C. Allen for C. Young & Son recovered a judgment at the term of the Lee County Court, against your orator, and William McPherson for \$162.35 with interest and costs, your orator was the principal in said debt and said McPherson was his surety. James W Orr was the sheriff of Lee County at the time and Wm McPherson, your orator's surety, was the legally qualified deputy of said Orr, acting as such, an execution issued on said judgment, and was placed in the hands of said Wm McPherson to collect, your orator had paid \$65, on said debt the 24th of Decr 1867 which was placed as a credit on said ~~debt~~ whilst the said was in the hands of said McPherson to collect, he collected from your orator \$100, on said ~~debt~~, and <sup>your orator</sup> took a receipt therefor, said McPherson failed to make return of the payment of said \$100, and another ~~debt~~ issued on the 18th of July 1870, for the whole amount of said judgment interest & costs, credited with \$65, the 24th of Decr 1867 and \$55, on the 18th of June 1869. The said ~~debt~~ <sup>last named</sup> ~~debt~~ was placed in the hands of Wm W Sage now sheriff of Lee County and he will collect, the same again off of your orator unless restrained.



By injunction, your order is remanded  
at Law, he prays your honor to grant  
him relief, he prays your honor to  
grant him an injunction, restraining  
the collection of \$65, dollars of said  
execution, besides the credits in case  
thereon, and on a final hearing he  
prays that said injunction be made  
perpetual, to that end he makes  
H. C. Allen, C. Young, & Robert Young and  
William McPherson parties defendant  
to this Bill, and prays that they  
answer the same on oath, he prays  
for the Commencement, writ of Habeas  
corpus and as in duty bound  
he will ever pray, &c.

Burns P. P.

All persons at Law in the present  
sought to be imprisoned are hereby  
released,

Jno. M. Tate Clerk

John M. Tate states that the allegations  
of the foregoing Bill are true July  
the 18th 1870,

Jno. M. Tate

Sworn to by John M. Tate before me  
the 18th of July, 1870,

Henry J. Morgan

Virginia Lee County Court

An injunction is granted the pref. restr.  
aiming the debts H. C. Allen, C. Young &  
R. Young from collecting \$65. of the  
said debt in the Execution mentioned  
in the Bill of H. C. Allen, for C. Young  
& Son vs John M. Tate & William  
McPherson, besides what is credited  
on said paper, until the further  
order of this Court. on condition that  
the complainant executes a bond  
with security to be approved by the  
clerk, in the sum of \$130, conditioned according to  
Law, given under my hand  
the 18th of July, 1870



J.B.H. 3.78  
 Coll. 2.95  
 Pr 5.00  
 Piffs costs \$11.73

Piffs costs. 6 1.99  
 A 15.00  
 \$16.99

John M. Lato.

no { Injunction Bill

To C. Allen for

Injunction granted to restrain the defendant from collecting \$65.00 of the judgment in the Bill mentioned until the further order of court.

1870. August Bond & d.

" O. Publication & cont'd

" Sept. Cont'd for O. P.

" Oct., Nov & Dec. cont'd for

O. Publication

1871 Jan. Cont'd for O. Pub.

" Feb. O. Pub. complete at this

" March, P. Visi confirmed +

causes set appearing by Piffs

" April, May & June continued

" June & July "

" Aug Injunction dissolved.

Bill dismissed at Piffs costs.



To the Honorable Henry J. Morgan Judge  
of the county court of Lee County <sup>your</sup>  
The separate answer <sup>of</sup> Robert D. Young to a  
bill filed in this Honorable court by John  
M. Tate, against this respondent et als.

Respondent says the pl. ff's bill is not  
sufficient in law. and of this he prays judgement  
But if any other or further answer be deemed  
necessary, answering he says the pl. ff's bill so far  
as the parties and nature of the transaction is  
concerned, is true, but your respondent, denies that  
there has ever been paid to him or his co-defend-  
ants Allen or C. Young the residue of said paper  
after deducting the credits of \$466 and \$35-- but, the  
same is yet unpaid to them; now as to the payment  
of the said claim to the said McPherson, he knows  
nothing of his own knowledge, but he is informed  
and believes <sup>at least while he was a deputy sheriff and</sup> the same never was paid to him  
- The said McPherson, informs your respondent the  
same has never been paid to him, and the pl. ff  
after the institution <sup>of this suit</sup> of respondent is properly  
informed has offered to pay the said residue if  
he would pay the costs of suit. but your re-  
spondent steadily refused to do so believing the same  
never had been paid - Respondent denies every other  
material allegation in pl. ff's bill not heretofore  
confessed charged or answered and having now  
answered he prays hence to be dismissed  
with his costs -

Hagan & Pridmore



Virginia Lee County to wit-

This day Robert D. Young personally appeared before me the undersigned, and made oath that the statements and allegations contained in the foregoing answer so far as made on his own knowledge are true and so far as made on information derived from others he believes them to be true - Given under my hand

This 3<sup>d</sup> day of April 1871 John B. West, D. C. Ck  
Lee County Court.

R. D. Young

vs Answer

John M. Tate

1871 April 3<sup>d</sup>. Filed.

John B. West, D. C. Ck



To the Honorable Henry J Morgan Judge  
of the County Court of Lee County

Clairborne Young a defendant to a bill  
filed in this honorable court against him  
dothors by John M Tate, says That the plain-  
tiffs bill is not sufficient in law. But  
if any further answer is required Answering  
he says That the allegations in the plaintiffs  
bill as to the payments claimed to have been made  
to Mr. M. P. Pherson deputy for J. M. over the  
Sherriff, <sup>when he the said M. P. Pherson had the execution in his hands for collection</sup> and for which no credit is given him,  
he does not believe to be true from the infor-  
mation which he has received. Indeed your  
respondent has been informed that no execution  
in the Judgment in the bill mentioned  
has ever been placed in the hands of  
said M. P. Pherson for collection. so if this  
be so the plaintiff must be laboring under  
some mistake as to facts. But at all events  
your respondent states That no other sums  
of money were ever paid to them on said  
Judgment other than their credit to wit  
\$65 & \$35. And the residue of said Judgment  
is duly due. Your respondent therefore prays  
That the Judgment granting the plaintiff  
be dissolved and bill dismissed costs.

Subscribed before me the undersigned Clerk of the County Court  
of Lee County by Clairborne Young this May 16th 1871.

James H. Orr, Clerk.



Clair Gaurg

acts { Lemm &anson

John M Lote

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Filed May



John M. Tate

against  
H. C. Allen for &c.

Injunction. In ch

This cause came on this day to be heard  
on the bill of the plaintiff the <sup>and several others</sup> ~~depositions~~ and  
answers of the defendants Claiborne and Robert  
de Young ~~depositions~~ with general replication  
~~depositions~~ depositions of witnesses and was argued  
by counsel. On consideration whereof it is adjudged  
ordered and decreed that the ~~plaintiffs bill~~  
Injunction heretofore awarded be dissolved and  
the plaintiffs bill be dismissed and that  
the defendants Claiborne Young and Robert  
de Young recover against the plaintiff their  
costs expended, and the cause is stricken  
off the docket.



John M. Lott

vs. { Injunction. In eq

F. C. Allen for vs.

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Entered order Book page  
340 Aug 24th 1871.  
James W. M. Lott

Enter this Decease  
H. J. Morgan  
Aug 24 1871



The deposition of James W Orr taken before me  
Peter C. Johnston a Commissioner in the  
Circuit Court of Lee County Va. <sup>at my office in the town of Danville, in said County</sup> which deposition  
is intended to be read as evidence on behalf of C. Gandy  
& Dms in a certain suit in Chancery now pending in the  
County Court of said County wherein John M. Tate  
is plff and the said C. Gandy & Dms are defendants  
James W Orr a witness of lawful age being first  
duly sworn deposes as follows.

I was Sheriff of Lee County in the year 1868, and Wm  
McPherson was at that time my Deputy, and an Execu-  
tion came into my hands in favor of Francis C. Allen  
for C. Gandy & Dms dated the 26th day of March 1868, return-  
able to June Rules 1868, against Wm McPherson, and on which  
I collected nothing, another execution issued on the same  
judgment, came into my hands dated the 8th day of July 1868 &  
returnable to October Rules 1868, on this last mentioned Execution  
Wm McPherson paid me the sum of \$35.00 which sum I  
paid over to the plffs, No Executions issued on the said judgment  
ever went into the hands of said McPherson as Deputy Sheriff <sup>for collection</sup>, that I know  
of, Neither does it appear from the records of the Clerk's office, that  
an Execution issued on said judgment ever did go into his  
hands for collection, and further the deponent saith not  
James W Orr.

I, Peter C. Johnston, Commissioner in Chancery of the Circuit Court of  
Lee County, in Virginia, do certify, that the foregoing deposition of  
James W. Orr was taken & sworn to before me, on the 18th day  
of July 1871, at the place stated in the caption thereof, by the consent  
and in the presence of both parties, notice being waived. Given under  
my hand this 18th day of July 1871.

P. C. Johnston,  
Comm.



C. Ganning & Sons.

adv<sup>3</sup> Deposition

John M. Tate

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Received from the Court  
before whom taken and  
filed. July 18th 1871.

James W. Orr. Clk.



State of Va 3  
Lee county This the 15<sup>th</sup> day of July  
1871.

I have on this day, proceeded to take the deposition of Samuel Pottel a witness for John M. Tate about the age of 40, years at Samuel Pottels in Lee county Va, in obedience to a notice herunto annexed in the presence of the said John M. Tate.

to be read as evidence in a suit now pending before the Judge of the county court of Lee county, Va wherein ~~in~~ the said young son is Plaintiff and John M. Tate Defendant. The said Samuel Pottel after being duly sworn on the Holy Evangelist to speak the truth the whole truth and nothing but the truth concerning the matters in dispute between the said parties deposes as follows.

In the Spring of 1868, I heard Wm McPherson say that John M. Tate had paid him what they was called the young Debt, known to have originated from H. L. Allen's Sale and I further know that I paid a part of the money to Wm McPherson myself. and that I and said McPherson was all present when they settled and I do know that Wm McPherson was J. W. Orr's Deputy Sheriff at that time and claimed to have the authority to collect said Debt and did so off of said Tate in my presence  
(over)



and John Mc Lane made said Wm =  
 McPherson fully satisfied that all  
 was paid of said Debt. and whether  
 said McPherson gave a receipt for  
 the payment of the same or not  
 I do not know. but I did hear  
 McPherson say that John Mc Lane had  
 paid him fully the young Debt. and  
 I further know that Wm McPherson  
 was and claimed to be the Deputy  
 Sheriff of Lu county Va under J. W. =  
 Orr. High Sheriff, and he said he  
 was sure it was all right  
 and for the more the Deposition  
 saith not. Samuel Poteet

John Mc Lane

vs } Deposition

C. Young & Son

Recd from Samuel  
 Poteet sealed & filed  
 July 17th 1871

James W Orr. Clerk

I certify That The foregoing Deposition is all  
 in my own hand writing That I am in no  
 wise related to either of the parties That the same  
 was taken before me on the day at the place and  
 in the presence of the party

Set forth in the caption and it has not been  
 out of my possession or in any wise altered added  
 to or changed since it was signed by the said  
 Samuel Poteet. This the 15th Day of July 1871.

John Astor J. P.



Wm. S. Young & Son  
Richfieldville

Please take notice that on the  
15<sup>th</sup> day of July 1871. at the  
Dwelling house of Samuel Potluts  
in Lee county Va. I will proceed  
to take the Deposition of Samuel  
Potluts to be read as evidence on  
behalf of myself. (John M. Saw)  
in an action now in law pending  
in the county court of Lee county Va.  
in which you are Deft. and  
I am Deft. and if said Deposition  
should not be commenced on that  
day I will continue from time  
to time until the same are  
fully taken July 6<sup>th</sup> 1871

Very Respectfully.  
John M. Saw



State of Va. }  
Lee county }  
}

I certify that Lewis  
Grims came before me and made  
oath that he delivered a true copy  
of the within notice to C. Young. Wm  
Stickleyville on the ~~8<sup>th</sup>~~ ~~7<sup>th</sup>~~ day of July 1871.  
Given under my hand July the  
15<sup>th</sup> day, 1871.

John McBurn J. P.



John W. Tate ----- Deft }  
vs. } In Lby.

Francis C. Allen, who sues for the benefit of "C. Young & sons" Deft

This day Francis W. Ott personally appeared before me  
the undersigned, and made oath that the above named Deft Francis  
C. Allen is a non-resident of the state of Virginia.

John B. West, Clerk Lee  
County Court.



John M. Tate

vs. { affiant.

Francis C. Allen, for the

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Know all men by these presents, that we John M. Tate  
and Sanders H. Loring and A. R. Surgeson are held  
& firmly bound unto Francis C. Allen for the benefit of  
C. Young & sons in the sum of \$130.<sup>00</sup>, to the true  
payment thereof, well & truly to be made to said Allen  
for the the benefit of said Young & sons, we bind ourselves,  
jointly & severally, firmly by these presents. Witness, our hands  
and seals this, 18th, day of July 1870.

The condition of the above obligation is such that where  
as the said John M. Tate hath obtained from the Judge  
of the County Court of Lee County an injunction to re-  
strain the said Allen, for the benefit of C. Young & sons,  
from <sup>collecting \$65.<sup>00</sup> of</sup> ~~all further proceedings on the judgment of the~~  
County Court, <sup>in the case mentioned</sup> obtained by said Allen as aforesaid,  
against the said Tate and one William McPherson  
for \$162.35 with interest from time done & costs, until  
the further order of Court. Now, if the said Tate  
shall pay all costs & damages which may be  
sustained by any one by reason of the granting of  
said injunction, <sup>& shall pay the said \$65.<sup>00</sup></sup> ~~in case~~ the same shall be dis-  
solved, then this obligation to be void, otherwise to  
remain in full force.

John M. Tate *JM*  
A. R. Surgeson *AS*  
Sanders H. Loring *SL*



John W. Lute

Lo 3 Injunction Pond

Francis C. Allen, for de.

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Virginia

At Rules held in the Clerk's Office of the County Court of Lee County, at the Court-House thereof, on Monday, the 1st day of August 1870.

John M. Tate ----- Plff

vs.

In Chancery.

Francis C. Allen, who sued for the benefit of C. Young & sons "Deft"

The object of this suit is to restrain the defendant Allen from collecting \$65.00 of the judgment in the Bill mentioned until the further order of Court. And it appearing from an affidavit filed in this office that the said Allen is a non-resident of the State of Virginia, It is therefore ordered that he appear here within one month after due publication of this order, and do what is necessary to protect his interest in this suit.

A copy. John B. West, Clerk.  
Test. John B. West, Clerk.

Virginia Lee County, To wit: I, hereby certify that on Monday, the 15th day of August 1870, that being Court-day, I posted at the front door of the Court-House of Lee County, a copy of the above order.

John B. West, Clerk

Augt 16th 1870.



John M. Tate

no. { Order of Publication

Francis C. Allen, for &c.



# VIRGINIA :

WASHINGTON COUNTY, TO WIT :

I do hereby certify that the annexed Notice has been published  
*four weeks successively, ending September 2<sup>nd</sup> 1870,*  
in the "ABINGDON VIRGINIAN," a newspaper published in the  
town of Abingdon, Va. . Given under my hand this *11<sup>th</sup>*  
day of *September* , 1870.

*Geo. R. Barr,*

*Jr. Ed "Virginian"*

VIRGINIA:—At Rules held in the Clerk's office of the County Court of Lee county, at the Court-house thereof, on Monday, the 1st day of August, 1870:

John M. Tate,

Plff.

vs.

Francis C. Allen, who sued for the benefit of "C. Young & Sons."

Def't.

## IN CHANCERY.

The object of this suit is to restrain the defendant Allen from collecting \$65.00 of the judgment in the Bill mentioned, until the further order of Court: And it appearing from an affidavit filed in this office, that the said Allen is a non-resident of the State of Virginia, it is therefore ordered that he appear here within one month after due publication of this order, and do what is necessary to protect his interest in this suit.

JOHN B. WEST, Clk.

Aug. 12, 1870.—4w.